

RESPONSE TO NON-FINAL OFFICE ACTION DATED 05/24/2004

Dear Kien T. Nguyen,

Thank you for your office communication dated 05/24/2004, concerning my waterproof lyrics display to aid singing in the shower. The intention is to encourage and improve singing in tens of millions of homes throughout America. This being a most worthwhile goal, we request the examiner's especially careful study of this response.

The examiner argues that my invention is unpatentable over Logan U. S. Patent 6,449,460 in view of Kramer U. S. Patent 5,607,339, because under 35 U.S.C. 103(a) "the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains."

I must respectfully disagree. It was not obvious to me, at the time I conceived the invention, that a waterproof lyrics display to aid singing in the shower was even possible. It wasn't obvious what form such a display should take; my initial experiments—all discarded now along the way—involved plastic bags, boxes, and laminations. It wasn't obvious that a person could read song lyrics through the heavy downpour of water or the poor illumination of the usual shower enclosure. It wasn't obvious what size and style of print might make this possible. It wasn't obvious that a book of lyrics could be supported solely by water adhesion; I tried all sorts of other supports (suction cups, brackets, etc.) first. It wasn't obvious that water adhesion support alone could sufficiently resist the flooding of water down the wall. It wasn't obvious that paper would work as the material; I tried stiff sheets of plastic, shower curtain vinyl, and other materials first, thinking that waterproof paper would blister when wet, then buckle and fall like ordinary paper. It wasn't obvious that waterproof paper was sufficiently impermeable to retain a water film between itself and the shower wall; or that the water film would not soon leach away at the edges. It wasn't obvious that water adhesion support could be maintained even though the joints usual between wall

tiles might allow downpouring water to penetrate. It wasn't obvious that inks sufficiently waterproof to withstand the heavy downpour of a shower (equivalent to a cloudburst, or several cloudbursts daily) were available; or that those inks would hold sufficiently fast to waterproof paper. It wasn't obvious that slim proportions—as in a magazine or pamphlet—were critical for a book to be supported solely by water adhesion. It wasn't obvious what the range of those slim proportions should be. It wasn't obvious that the slippery pages of a waterproof book adhered to a shower wall could be easily grasped and turned in the downpour of a shower. It wasn't obvious that the height of such a book on the wall could be adjusted by sliding. Finally, it wasn't obvious that the invention, by the seemingly simple act of displaying lyrics, would instantly and dramatically, improve one's singing.

None of these things were obvious to me. They only became clear gradually over many months of experiment. And these things are not obvious from the art cited. In fact, Logan is not at all useable in a shower. Neither is Kramer. There is not the slightest suggestion in either patent of use in a downpouring shower to aid singing.

The examiner notes that Logan's Teaching Method And Kit is not waterproof, and provides no support means for use in a shower. Logan is clearly meant for teaching disabled children in a dry classroom. The teaching method is complex, requiring careful manipulation of songbooks, icons, and cassette recordings (4.50 - 5.02). Even if every component of Logan's teaching kit could be waterproofed—certainly doubtful for the cassettes—no reasonable person would ever consider using it (with nude students and teachers?) in the shower.

True, Logan's songbook component might be waterproofed, but most factors discussed above would still not be obvious, or my "subject matter as a whole."

Regarding Kramer, his invention and mine are physically and functionally very different. He shows a buoyant flotation toy (1.12) for a child sitting in a bath (1.08), not a lyrics display for a singer standing in a shower. His small play shapes (1.21) of foam (4.13) must be 2mm to 6mm thick (1.23). His shapes are so irregular in outline (Figs. 1-2)—compared to a simple rectangle—

that exposure of edges is greatly increased. When small, thick, irregular shapes like these are wetted and adhered to a shower wall and flooded by a downpouring shower, they immediately wash off the wall. (Please note the attached affidavit, which records experimental proof of this.) The adhesion area is too small in proportion to the exposed edges.

In contrast, my slim, rectangular, waterproof magazines and pamphlets (my 2.3) have a very large adhesion area in proportion to a very thin exposed edge. They easily resist the flood of a downpouring shower, and remain on the wall for hours. And my waterproof poster—a single paper-thin page that maximizes adhesion area in proportion to edge—remains on the wall through repeated showers literally for months.

These matters of proportion are emphasized on the very first page of my application—“for best adhesion, the book has the slim proportions of a magazine”—and frequently again throughout. Slim proportions are neither taught by Kramer, nor are they just an arbitrary or obvious design choice. They are of the essence, critical for my invention to function on a wall being flooded by a downpouring shower.

While requiring thick (2mm to 6mm) materials, Kramer specifically excludes thinner ones. “Thin membrane materials” (3.26) are especially “unsuitable” (3.28) because they are “not easily handled by infants” (3.29), and because, if placed in the mouth (3.36) and bitten (3.37) or torn off they “could be swallowed or potentially choke the child” (4.01). Kramer thus excludes the paper-thin pages essential to the functioning—and economy—of my invention.

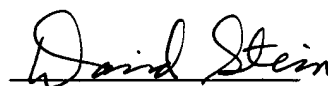
Please note that Kramer chooses waterproof paper (polyvinylchloride) only when laminated to a thick 2mm to 6mm (1.23) foam backing layer (4.13). And although Kramer’s paper works as a lamination in the context of his invention, he does not teach that paper alone—not laminated to another material—could work in my very different context, and remain supported by water adhesion on a wall while subjected to the downpouring flood of a shower. Also please note that his lamination of paper functions solely to carry printed toy images—which always face outward from the enclosure wall (his Figs. 1 - 2). Therefore, water adhesion of a waterproof paper surface dir-

In sum, my invention is not obvious from Logan, Kramer, their combination, or any discovered art. And, despite its elegant simplicity, the invention is not obvious in itself. If my invention—we raise this question again—is obvious, why, considering the great potential benefits and profits, has not one person among the millions who sing in the shower ever proposed it?

Respectfully submitted,

David Stein, inventor

Dated: Sept. 23, 04

A handwritten signature in cursive script that reads "David Stein". The signature is written in dark ink and is positioned below the typed name "David Stein, inventor".

DAVID STEIN
319 West 106th Street #2A
New York, NY 10025
212-663-2325
davidstein6314@earthlink.net